

§ 1952.216

rules or orders, and all Federal standards, current or future, specifically directed to private sector maritime employment (29 CFR Part 1915, shipyard employment; Part 1917, marine terminals; Part 1918, longshoring; Part 1919, gear certification), as well as provisions of general industry and construction standards (29 CFR Parts 1910 and 1926) appropriate to hazards found in these employments; and employment on military bases. Federal jurisdiction is also retained with respect to Federal government employers and employees; and the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations.

(2) In addition, any hazard, industry, geographical area, operation or facility over which the State is unable to effectively exercise jurisdiction for reasons not related to the required performance or structure of the plan shall be deemed to be an issue not covered by the finally approved plan, and shall be subject to Federal enforcement. Where enforcement jurisdiction is shared between Federal and State authorities for a particular area, project, or facility, in the interest of administrative practicability Federal jurisdiction may be assumed over the entire project or facility. In either of the two aforementioned circumstances, Federal enforcement may be exercised immediately upon agreement between Federal and State OSHA.

(c) Federal authority under provisions of the Act not listed in section 18(e) is unaffected by final approval of the plan. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act, although such complaints may be referred to the State for investigation. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination, although such

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standards may not be Federally applied. In the event that the State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in that State.

(d) As required by section 18(f) of the Act, OSHA will continue to monitor the operations of the Maryland State program to assure that the provisions of the State plan are substantially complied with and that the program remains at least as effective as the Federal program. Failure by the State to comply with its obligations may result in the revocation of the final determination under section 18(e), resumption of Federal enforcement, and/or proceedings for withdrawal of plan approval.

[50 FR 29220, July 18, 1985, as amended at 65 FR 36623, June 9, 2000]

§ 1952.216 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations:

Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N3700, Washington, DC 20210;

Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, The Curtis Center, 170 South Independence Mall West—Suite 740 West, Philadelphia, Pennsylvania 19106-3309; and

Office of the Commissioner, Maryland Division of Labor and Industry, Department of Labor, Licensing and Regulation, 1100 N. Eutaw Street, Room 613, Baltimore, Maryland 21201-2206.

[65 FR 36623, June 9, 2000]

§ 1952.217 Changes to approved plans.

(a) *Legislation.* (1) On March 29, 1994, the Assistant Secretary approved Maryland's revised statutory penalty levels which are the same as the revised Federal penalty levels contained in section 17 of the Act as amended on November 5, 1990.

(2) [Reserved]

(b) [Reserved]

[59 FR 14556, Mar. 29, 1994]

Subpart P—Tennessee

§ 1952.220 Description of the plan as initially approved.

(a) The plan identifies the Department of Labor and the Department of Health as the agencies designated to administer the plan throughout the State. It adopts the definition of occupational safety and health issues expressed in § 1902.2(c)(1) of this chapter. All standards, except those found in 29 CFR parts 1915, 1916, 1917, and 1918 (ship repairing, ship building, ship breaking and longshoring) will be adopted and enforced immediately upon approval of the plan by the Assistant Secretary.

(b)(1) The plan includes legislation passed by the Tennessee Legislature during its 1972 session which became effective July 1, 1972. Under the law, the Department of Labor and the Department of Public Health will have full authority to enforce and administer laws respecting safety and health of employees in all workplaces of the State with the exception of employees of the United States or employees protected under other Federal occupational safety and health laws such as the Atomic Energy Act of 1959 (42 U.S.C. 2011 *et seq.*), the Federal Coal Mine Safety Act of 1969 (30 U.S.C. 801), the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721 *et seq.*) railroad employees covered by the Federal Safety Appliances Act (45 U.S.C. 1 *et seq.*) and the Federal Railroad Safety Act (45 U.S.C. 421 *et seq.*), the Longshoremen's and Harbor Workers' Compensation Act, as amended (33 U.S.C. 901 *et seq.*), domestic workers, and any employee engaged in agriculture who is employed on a family farm. The Act further provides for the protection of employees from hazards, procedures for the development and promulgation of standards, including standards for protection of employees against new and unforeseen hazards; procedures for prompt restraint or elimination of imminent danger situations.

(2) The Act also insures inspections in response to complaints; employer and employee representatives an opportunity to accompany inspectors in

order to aid inspections; notification of employees or their representative when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protections and obligations; adequate safeguards to protect trade secrets; provisions for prompt notice to employers and employees of alleged violations of standards and abatement requirements; a system of sanctions against employers for violations of standards; employer right of review with employee participation in review proceedings, and coverage of employees of political subdivisions. Legislation which became effective on April 5, 1973, providing for "stop orders" for cases of imminent danger situations is also included.

(c)(1) The plan further includes proposed amendments submitted by the State which will be presented to the 1974 session of the State legislature to bring its Occupational Safety and Health Act into conformity with the requirements of 29 CFR part 1902. These amendments pertain to such areas as permanent variances, employee protection against discharge or discrimination in terms and conditions of employment, imminent danger situations, sanctions, and walkaround. A statement of the Governor's support for the proposed amendments and a statement of legal opinion that they will meet the requirements of the Occupational Safety and Health Act of 1970 and is consistent with the Constitution and laws of the State are included in the plan.

(2) The plan provides a comprehensive description of personnel employed under the State's merit system and assurances of sufficient resources. The plan further sets out goals and provides a timetable to bring it into full conformity with the requirements of part 1902 of this chapter.

(d) The Tennessee plan includes the following documents as of the date of approval:

(1) The plan description documents including the Tennessee Occupational Safety and Health Act, the proposed amendments to the Act and appendices in three (3) volumes;

(2) Letter from Ben O. Gibbs, Commissioner of Labor to Henry J. Baker,